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Mexico Proposes Labeling Changes for Food and Nonalcoholic Beverages

Report Categories:

Policy and Program Announcements

Approved By:

W. Garth Thorburn

Prepared By:

María de Lourdes Guzmán Contró

Report Highlights:

Proposed changes to the Mexican standard for the “General Guidelines for Labeling Prepackaged Foods and Non-Alcoholic Beverages - Commercial and Sanitary Information” have been concluded. The Federal Commission for Regulatory Improvement (COFEMER) is currently accepting private sector comments for the proposed revisions. Industry experts are concerned with some of the proposed changes and believe they could lead to arduous or confusing requirements. Also of concern is the proposed short implementation period.

General Information:

Background

On January 24, 1996, the Mexican standard (NOM-051-SCFI-1994) “General Guidelines for Labeling Prepackaged Foods and Non-Alcoholic Beverages” was published in the “Diario Oficial de la Federación” (the official gazette). This NOM has been under revision for the past 2-3 years. The current and final draft or “Anteproyecto” (PROY-NOM-051-SCFI/SSA1-2009) was submitted by

the Secretariat of Economy (Economía) to the Comisión Federal de Mejora Regulatoria (COFEMER) for review on July 20, 2009. COFEMER published the draft regulation on its web page at: (www.cofemer.gob.mx).

The new proposed NOM is a joint initiative between the Secretariat of Economy (Economía) and the Secretariat of Health (SSA-Salud) with the objective of creating a new labeling regime that will address commercial and sanitary concerns as well as providing consumers with nutritional information. This information is to be included in the label as a tool to help consumers make informed purchases.

The Review and Comment Process

COFEMER is the Mexican Federal Commission for Regulatory Improvement. They are the agency responsible for analyzing the viability and compliance of rules, regulations or initiatives with current legislation issued by different Mexican government agencies. They are also responsible for receiving and vetting industry comments during this process.

Officially, COFEMER has 10 working days to produce the initial compliance response or “Dictamen” based on their own analysis and relevant industry comments. This initial “Dictamen” is due on August 10, 2009. (Note: The deadline was extended to account for a holiday period granted to federal government employees from July 20 through July 31, 2009). However, the industry can continue to send in their comments to COFEMER after August 10. Comments received after this date will be forwarded to Economía. Once Economía replies to COFEMER with the recommended changes in the “Dictamen”, COFEMER will then have an additional 20 working days to submit their ruling or “Dictamen Total” that will include comments that must be addressed once again by Economía. Finally, COFEMER will have an additional 5 working days to submit the final rule or “Dictamen Final”. (Please note: COFEMER has a 30 working day limit for publishing the “Dictamen Total”, however Economía has no deadline for submitting their comments to COFEMER).

Once the “Dictamen Final” has been made and the document is published by the appropriate agency as a “Proyecto de NOM” (NOM proposal or project) in the “Diario Oficial”, the industry has a final 60 day period to make additional comments. This document will be reviewed once more and officially published as a “Norma Oficial Mexicana” (official Mexican Standard) that will have to be observed by all interested parties. If left unchanged, once the final version is published in the Diario Oficial, the industry will have 60 days to comply with the new regulation.

Current Industry Response

The local industry continues to send in their comments to COFEMER through different market sector groups such as CONCAMIN (National Confederation of Industrial Chambers) and CANACINTRA (National Chamber of the Manufacturing Industry) as well as other interested parties. All private sector comments for Anteproyecto NOM-051 should be sent to COFEMER at the following e-mail address: cofemer@cofemer.gob.mx

Attached is an unofficial translation of the new NOM-051. Please note that sections highlighted in:

- 1) YELLOW are new additions to NOM-051.
- 2) RED are deletions which have been made from the previous version of NOM-051.

Below are some areas of concern highlighted by industry groups and experts.

- The proposed 60 day deadline to comply with the new labeling requirements is a concern to the industry. The industry has requested 24 months. A 6 month period is more likely to be granted.
- All nutritional labeling that used to be optional is now mandatory.
- This NOM is supposed to be compliant with CODEX labeling requirements but does not mirror the regulation entirely. This leaves room for inconsistencies. For example, the definition of additives have been modified and could potentially lead to labeling problems.
- The expiration date format as required by Mexico is day/month/year while in the United States the format is month/day/year. If U.S. suppliers are not aware of the difference, this could be problematic.
- The new NOM proposes to change the minimum requirement for listing ingredients on the label from 25 percent to 5 percent of content. Some industry representatives are concerned that this could lead to disclosure of specific product formulas.
- It is unclear if a prepackaged product that is later repacked should comply with this new regulation. For example, hams or cheese that are repackaged for resale.
- The NOM states that it partially meets other international standards including CODEX, leading to speculation and unclear guidelines.
- A portion of NOM-051 overlaps with NOM-086.
- Industry representatives are concerned that a specific claim that describes in the best possible way the features of their product could be interpreted as misleading the consumer. This could present a challenge for manufacturers.
- A new feature of this NOM is the inclusion of generic names for ingredients such as milk and milk products, whey (butter, cheese and milk), hot peppers and egg products when added to the ingredient list.
- Another new feature is the inclusion of statements mentioning the possibility of allergens found in ingredients. Some of these ingredients are fish, cereals containing gluten, tree nuts, peanuts, and products containing lactose.

- The mandatory use of a declaration and logo if products have been irradiated.
- Some products for which an expiration date is not required includes fresh fruits, vegetables, bakery and pastry products (that are normally consumed within 24 hours), vinegar, salt, solid sugar and chewing gum.
- The recommended daily allowances for ingredients were modified to reflect the Mexican population requirements.